

Remarks

Claims 1-31 are pending in the application. Claim 28 has been withdrawn from consideration. Claims 8, 13, 18, and 21 have been amended. Claim 17 has been cancelled. Re-examination and reconsideration of the application is respectfully requested for the reasons set forth herein.

1. A telephonic interview occurred on May 10, 2004 involving Examiner Brian E. Glessner, Salvatore Anastasi, and Jennifer Mae Slonaker. During the aforementioned interview, Examiner Glessner indicated that amending independent claims 8, 13, and 21 to change the transition language “comprising” to --consisting of-- would overcome the current rejections of the claims and put the application in condition for allowance. Because the application has been amended to reflect the amendments suggested by the Examiner, the application is considered to be in condition for allowance. A more detailed explanation of these amendments is set forth hereafter.

2. The Examiner has rejected claims 13-20 and 30 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Specifically, the Examiner stated that in claim 13 that the language “frictionally interfaced with the subfloor” is indefinite because the subfloor is not positively claimed.

Claim 13 has been amended to recite that the continuous sheet has a bottom surface configured for frictional interface with the subfloor. In view of this amendment, removal of the rejection of claims 13-20 and 30 under 35 U.S.C. 112, second paragraph, is respectfully requested.

3. The Examiner has rejected claims 8-11, 13-19, 21-23, and 26-27 under 35 U.S.C. 102(e) as being anticipated by Kakimoto et al. (U.S. Patent No. 6,602,586).

a. Claim 8 has been amended to recite that the substrate consists of a sheet having a bottom surface configured for frictional interface with the subfloor and a top surface configured for receiving the decorative upper layer. As discussed in column 3, lines 34-57 and shown in Figure 1 of Kakimoto et al., Kakimoto et al. teaches an elastic block 1 having a powdery rubber-containing layer 2 adhered to a vulcanized rubber layer 3. Kakimoto et al. therefore does not teach a single sheet with the claim limitations required by the claim. Removal of the rejection of claim 8 under 35 U.S.C. 102(e) is respectfully requested.

Claims 9-11 depend from independent claim 8. As previously discussed, Kakimoto et al. does not teach all of the elements of claim 8. Because Kakimoto et al. does not teach all of the elements of claim 8, Kakimoto et al. does not teach all of the elements of claims 9-11. Removal of the rejection of claims 9-11 under 35 U.S.C. 102(e) is respectfully requested.

b. Claim 13 has been amended to include the claim limitations of dependant claim 17 and to recite that the substrate consists of a continuous sheet having a bottom surface for frictional interface with the subfloor and a top surface configured for receiving the decorative upper layer. Claim 17 has been cancelled. As previously discussed, Kakimoto et al. does not teach a single sheet with the claim limitations required by the claim. Removal of the rejection of claim 13 under 35 U.S.C. 102(e) therefore is respectfully requested.

Claims 14-16, 18-19, and 26 depend from independent claim 13. As previously discussed, Kakimoto et al. does not teach all of the elements of amended claim 13. Because Kakimoto et al. does not teach all of the elements of amended claim 13, Kakimoto et al. does not

teach all of the elements of claims 14-16, 18-19, and 26. Removal of the rejection of claims 14-16, 18-19, and 26 under 35 U.S.C. 102(e) is respectfully requested.

c. Claim 21 has been amended to recite that the substrate consists of a sheet having a bottom surface configured for frictional interface with the subfloor and a top surface configured for receiving the decorative upper layer. As previously discussed, Kakimoto et al. does not teach a single sheet with the claim limitations required by the claim. Removal of the rejection of claim 21 under 35 U.S.C. 102(e) therefore is respectfully requested.

Claims 22-23 and 27 depend from independent claim 21. As previously discussed, Kakimoto et al. does not teach all of the elements of claim 21. Because Kakimoto et al. does not teach all of the elements of claim 21, Kakimoto et al. does not teach all of the elements of claims 22-23 and 27. Removal of the rejection of claims 22-23 and 27 under 35 U.S.C. 102(e) is respectfully requested.

4. The Examiner has rejected claims 12, 20, 24-25, and 29-31 under 35 U.S.C. 103(a) as being unpatentable over Kakimoto et al. (U.S. Patent No. 6,602,586)

Claim 12 depends from independent claim 8. As previously discussed, Kakimoto et al. does not teach all of the elements of claim 8. Because Kakimoto et al. does not teach all of the elements of claim 8, Kakimoto et al. does not teach or suggest all of the elements of claim 12.

Claim 20 depends from independent claim 13. As previously discussed, Kakimoto et al. does not teach all of the elements of claim 13. Because Kakimoto et al. does not teach all of the elements of claim 13, Kakimoto et al. does not teach or suggest all of the elements of claim 20.

Claim 24 depends from independent claim 21. As previously discussed, Kakimoto et al. does not teach all of the elements of claim 21. Because Kakimoto et al. does not teach all of the elements of claim 21, Kakimoto et al. does not teach or suggest all of the elements of claim 24.

Claim 25 depends from independent claim 1. As previously discussed, Kakimoto et al. does not teach all of the elements of claim 1. Because Kakimoto et al. does not teach all of the elements of claim 1, Kakimoto et al. does not teach or suggest all of the elements of claim 25.

Removal of the rejection of claims 12, 20, 24-25, and 29-31 under 35 U.S.C. 103(a) therefore is respectfully requested.

In view of the arguments and amendments presented herein, the application is considered to be in condition for allowance. Reconsideration and passage to issue is respectfully requested.

Please charge any additional fees associated with this application to Deposit Order Account No. 501581.

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